

Via Fax No. (212) 805-6382

2707 Creston Ave., #2F  
Bronx, New York 10468  
Feb. 25, 2009

Hon. Victor Marrero  
United States District Judge  
500 Pearl Street, Suite 660  
New York, New York 10007

Re: 09 Civ. 00650 (VM)

Dear Judge Marrero:

<p>USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4-7-09</p>
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Plaintiff Bernard H. Glatzer ("Glatzer"), Pro Se, respectfully responds to defendants' attorney's ("Tomari") Feb. 23, 2009 letter to Your Honor, a copy of which Glatzer received today.

The letter's paragraph 2 is erroneous in its description of the factual events which resulted in Glatzer's filing of the Clerk's Certificate of Default on Feb. 20, 2009 with the Orders and Judgments Clerk, who issued the Clerk's Certificate of Default the same day.

Since defendant Hon. John A. Barone's answer (or motion) was due on Feb. 13, 2009 which Glatzer had not yet received, Glatzer on Feb. 10, 2009 telephoned Ms. Stephanie Rosenberg of the Attorney General Managing Attorney Office to inquire whether they would be representing the three defendant justices. Ms. Rosenberg answered yes and stated that the appropriate Assistant Attorney General would contact Glatzer.

Glatzer spoke with Ms. Rosenberg because Glatzer previously on Jan. 26, 2009 served a courtesy copy of the summons and complaint upon Ms. Rosenberg at her request, as indicated in the attachment.

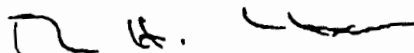
Since no one from the Attorney General's Office contacted Glatzer, Glatzer again telephoned Ms. Rosenberg on Feb. 11, 2009 who informed Glatzer that Assistant Attorney General Anthony J. Tomari would be representing the three defendant justices. Shortly thereafter Glatzer telephoned Mr. Tomari at 4:30 P.M. on Feb. 11, 2009.

Mr. Tomari stated that he had until thirty days after Glatzer filed the proofs of service upon the defendant justices to answer or move against the complaint, which he neglects to mention in his letter since it is obviously erroneous. Mr. Tomari further stated that he had not yet read the complaint, pursuant to which he would contact Glatzer at the latest on Feb. 19, 2009.

Since Mr. Tomari did not contact Glatzer on Feb. 19, 2009, Glatzer filed the Clerk's Certificate of Default on Feb. 20, 2009 the next day.

The three defendant justices are clearly in default because their attorney Tomari was confused about the twenty day period to answer or move against the complaint in federal court, and not because of the misleading reasons stated in paragraph 2 of his letter.

Respectfully submitted,



Bernard H. Glatzer  
Plaintiff, Pro Se  
(718) 584-3998 (Tel. & Fax)

cc: Anthony J. Tomari  
Fax No. (212) 416-6075

